

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

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THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
WD OF TENNESSEE

BETTY J. PATRICK TYLER,

Plaintiff,

v.

No. 02-2137 B/V

FEDERAL EXPRESS CORPORATION,

Defendant.

ORDER TO SHOW CAUSE WHY DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT SHOULD NOT BE GRANTED


On February 28, 2004, the Plaintiff, Betty J. Patrick Tyler, initiated this action against the Defendant, Federal Express Corporation, alleging discrimination and retaliation in violation of Title I of the Americans with Disabilities Act of 1990, Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq.; and the Tennessee Human Rights Act ("THRA"), Tennessee Code Annotated § 4-21-101 et seq. Before the Court is the January 12, 2005 motion for summary judgment by the Defendant. Defendant maintains that Plaintiff's claims are barred by the doctrine of judicial estoppel because Plaintiff did not disclose this lawsuit as an asset in her voluntary bankruptcy proceeding commenced under Chapter 13 of the United States Bankruptcy Code in United States Bankruptcy Court for the Western District of Tennessee on March 6, 2002. In her response to Defendant's motion, filed on February 14, 2005, Plaintiff asserts that her claims should not be dismissed because the failure to disclose this action in her bankruptcy filings was the result of inadvertence. Further, Plaintiff claims that, as of the filing of her response, she has contacted her attorney for the Bankruptcy proceeding and "is working to

ensure that her bankruptcy petition and schedules are properly amended to include this lawsuit.”

(Pl.’s Mem. Opp. Def.’s Mot. Summ. J. at 18.)

To date, this Court has received no information indicating that such amendments have been made. Accordingly, the Plaintiffs is hereby directed, within eleven (11) days of the entry hereof, to show cause why the Defendant’s motion for summary judgment should not be granted on the basis of judicial estoppel for Plaintiff’s failure to disclose the instant action in her pending bankruptcy proceeding. Failure of the Plaintiff to comply in a timely manner with this order may result in dismissal with prejudice of Plaintiff’s claims against Defendant.

IT IS SO ORDERED this 4th day of October 2005.


J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 103 in case 2:02-CV-02137 was distributed by fax, mail, or direct printing on October 5, 2005 to the parties listed.

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Honorable J. Breen
US DISTRICT COURT